

SEP 15 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JORGE ALVAREZ-MARROQUIN,

Defendant - Appellant.

No. 05-10563

D.C. No. CR-04-05269-OWW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted September 11, 2006**

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Jorge Alvarez-Marroquin appeals from his 188-month sentence imposed by the district court following his conviction by a jury for distributing methamphetamine, possession with intent to distribute methamphetamine,

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

conspiracy to distribute and to possess with intent to distribute methamphetamine, and aiding and abetting, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846, and 18 U.S.C. § 2. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Alvarez-Marroquin contends that the district court clearly erred in denying his request for a two-level mitigating role reduction for being a minor participant in an offense pursuant to U.S.S.G. § 3B1.2, by failing to compare his conduct with the conduct of other participants in the offense, and instead finding only that he was an active participant. The district court did not clearly err in denying this request because the record reflects that Alvarez-Marroquin was not “‘substantially’ less culpable than his co-participants” and his efforts were “integral to the successful completion of the drug transaction.” *See United States v. Duran*, 189 F.3d 1071, 1089 (9th Cir. 1999). To the extent that Alvarez-Marroquin contends that the court mistakenly believed that an active participant is not entitled to a role reduction, we find no support for such a claim.

AFFIRMED.